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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,480	12/26/2000	Peter J. Kennedy	6169-141	4365

7590 03/24/2004  
Akerman, Senterfitt & Eidson, P.A.  
P.O. Box 3188  
West Palm Beach, FL 33402-3188

EXAMINER
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LANEAU, RONALD

ART UNIT	PAPER NUMBER
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2674

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/749,480

Applicant(s)

KENNEDY ET AL.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-12 and 14-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,8,10,12,14,15 and 19-23 is/are rejected.
- 7) ☒ Claim(s) 5,9,16 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Response to Amendment***

1. The amendment filed on 12/12/03 has been entered. New claims 22 and 23 are added and claims 1, 3-12, and 14--23 are now pending.

***1.131 Declaration***

2. The 1.131 declaration submitted on 12/12/03 was considered by the examiner and it was persuasive. The declaration filed resulted in the new rejection based on Westerman et al (US 6,323,846).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2-4, 8, 10, 12, 14, 15, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over D'Amico et al (US 5,956,020) in view of Westerman et al (US 6,323,846).

As per claims 1 and 12, D'Amico et al teach a computer system employing a touch sensitive display (touchscreen) as an input device, a touch device which may take the form of a touch pen which is electrically coupled to the controller or a human finger. The controller responds to different commands from the host computer to transmits input entered only by finger, only by pen, or by both finger and pen (see abstract, lines 1-10). D'Amico et al do not teach contact information specifying a size or contact criteria specifying a threshold contact size

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but Westerman et al teach computing the inner and outer finger sizes and contacts based on keypress proximity threshold and then the diamond 754 checks whether the contact path has been identified as a finger rather than a palm (palm when using the stylus) (col. 56, lines 43-52).

It would have been obvious to one of ordinary skill in the art to utilize the contact size information taught by Westerman et al into the device of D'Amico et al because it would provide a user with the ability of a properly programmed application to accept different types of input enables programs to accept finger of different size for particular tasks, pen input for other tasks, which may possibly require more precision, and pen and finger inputs for yet different types of tasks.

As per claims 3, 4, 14, and 15, D'Amico et al teach a determining step comprising for said contact information consistent with said contact criteria corresponding to said finger contact or pen contact, and interpreting said detected contact as said finger contact or stylus contact respectively (col. 1, lines 58-67).

As per claims 8 and 19, D'Amico teaches an activated point (point of contact) in said touchscreen beneath said detected contact (see D'Amico, abstract, lines 2-6).

As per claims 10 and 21, D'Amico et al do teach a visual interface in said touchscreen which corresponds to said finger contact or said stylus contact as claimed.

As per claims 22 and 23, D'Amico teaches a method or a machine readable storage comprising at least one programmatic action according to said determining step as claimed (see D'Amico, fig. 1, 10).

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5. Claims 6, 7, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Westerman et al (US 6,323,846) in view of D'Amico et al (US 5,956,020) and further in view of Doering (US 4,868,912).

As per claims 6 and 17, the same rejection to claims 1 and 12 applies. However, neither D'Amico nor Westerman et al teach detecting the duration of contact or the duration between of contact but Doering teaches a minimum and a maximum time requirement for an object to touch the screen (see abstract, lines 16-18).

It would have been obvious to one of ordinary skill in the art to utilize the time requirement as taught by Doering into the combined device of Westerman et al and D'Amico because it would distinguish between deliberate user selections and accidental or inadvertent touchings of the screen (see Doering, col. 2, lines 20-22). Further, Doering like Levy uses size constraints for the object touching the screen (abstract, lines 16, 17).

As per claims 7 and 18, neither D'Amico nor Westerman et al nor Doering teach detecting the duration of contact or the duration between said contact and a second contact but it would have been obvious to one of ordinary skill in the art to determine the duration of time between multiple contacts because it would distinguish between deliberate user selections and accidental or inadvertent touchings of the screen.

***Allowable Subject Matter***

6. Claims 5, 9, 16, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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As per claim 5, a method further comprising offsetting an on-screen pointer a predetermined distance from said detected contact.

As per claim 9, a method further comprising: converting pointer control information to text.

As per claim 16, a machine readable storage further causing the machine to perform the step of: offsetting an on-screen pointer a predetermined distance from said detected contact.

As per claim 20, a machine readable storage further causing the machine to perform the step of: converting pointer control information to text.

Claim 11 is allowed.

As per claim 11, in a computer based system having a touch screen, a method for distinguishing between a finger and a stylus comprising:

for said contact information consistent with said contact criteria corresponding to finger contact, interpreting said detected contact as a finger contact; and, offsetting an on-screen pointer a predetermined distance from said detected contact; and detecting the duration of said contact and the duration between said contact and a second contact.

### ***Response to Arguments***

7. Applicant's arguments filed on 12/12/03 have been fully considered but they are not persuasive.

Applicant's arguments about the Levy reference are moot in view of the new added reference of Westerman et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is 703-305-3973. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 6:00 PM or via email: [ronald.laneau@uspto.gov](mailto:ronald.laneau@uspto.gov).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe can be reached at 703-305-4709.

9. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

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Ronald Laneau  
Examiner  
Art Unit 2674

rl  
March 7, 2004



RICHARD HJERPE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600